

Title 33
ENVIRONMENTAL QUALITY
Part VI. Inactive and Abandoned Hazardous Waste and
Hazardous Substance Site Remediation

Chapter 1. General Provisions and Definitions

§103. Regulatory Overview

[See Prior Text in A]

B. Site Discovery and Evaluation

1. Site Discovery Reporting. These regulations establish a reporting program as required by the Louisiana Environmental Quality Act to help identify inactive or uncontrolled sites where hazardous substances could have been disposed of or discharged. Owners, lessees, and other persons who know or discover that hazardous substances have been discharged or disposed of at such a site must report this information to the Office of Environmental Assessment, Remediation Services Division, within the specified time. The department may also discover sites through its own investigations, referrals from other agencies, or other means.

[See Prior Text in B.2 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2178 (November 1999), LR 26

§117. Definitions

A. For all purposes of these rules and regulations, the terms used in this Chapter shall have the meanings given below unless specified otherwise or unless the context or use clearly indicates otherwise.

[See Prior Text]

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

[See Prior Text]

Department—the Department of Environmental Quality.

[See Prior Text]

Secretary—the secretary of the Department of Environmental Quality.

[See Prior Text]

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Chapter 2. Site Discovery and Evaluation

§201. Site Discovery

A. Site Discovery Reporting Requirements. As part of a program to identify inactive or uncontrolled contaminated sites, the owner, operator, or other responsible person shall report to the Office of Environmental Assessment, Remediation Services Division any sites where hazardous substances have been, or could have been, disposed of or discharged. This Section sets forth the requirements for reporting such sites.

B. Mandatory Reporting

[See Prior Text in B.1 - 2]

3. The department shall be notified in writing within 30 calendar days of the discovery of the discharge or disposal of any hazardous substance at an inactive or uncontrolled site. A written report shall be prepared and sent to the Office of Environmental Compliance, Surveillance Division. The date that the department was officially notified shall be determined as follows:

[See Prior Text B.3.a - 5.f]

C. Voluntary Reporting. In addition to the mandatory reporting by those persons listed under Subsection B of this Section, all members of the public are encouraged to report to the department any suspected discharge, disposal, or presence of any hazardous substance at any inactive or uncontrolled site. This voluntary reporting can be made in writing to the Office of Environmental Compliance, Surveillance Division.

[See Prior Text D -D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

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Chapter 3. Administrative Processes

§303. Declaration that a Site is Abandoned

[See Prior Text A - B.2]

3. Within 10 calendar days of the publication of the last official journal notice, any owner may request a hearing by writing to the Office of the Secretary, Legal Affairs Division, regarding the declaration of abandonment. If a request for a hearing is received, the department shall hold a hearing in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq.

[See Prior Text C - C.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq.

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Chapter 4. PRP Search, Notification, and Demand for Remediation

§403. Notification to Provide Information

A. The Office of Environmental Assessment, Remediation Services Division, shall send a written notification to provide information to all PRPs identified during its preliminary PRP investigation. The administrative authority may, at its discretion, send supplemental or additional notifications to any PRP identified by the administrative authority at any time during the remedial action process.

[See Prior Text B - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

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Chapter 5. Site Remediation

§501. Remedial Actions

[See Prior Text A]

B. The Office of Environmental Assessment, Remediation Services Division, shall consider the following factors in determining the need for or the appropriateness of a remedial action consistent with Subsection A of this Section:

[See Prior Text B.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26

§502. Role of PRPs in Remedial Actions

A. The Office of Environmental Assessment, Remediation Services Division, may, as its sole discretion, direct PRPs to perform any site investigation, remedial investigation, corrective action study, and/or remedial action in accordance with the following:

[See Prior Text A.1 - 5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2186 (November 1999), LR 26

§505. Removal Action

[See Prior Text A - A.3]

4. If the removal action results in achievement of the RECAP standards established by the department, the Office of Environmental Assessment, Remediation Services Division, may

determine that no further action is required. The department may then issue a decision document stating that the removal action is the final remedy and no further action is required.

[See Prior Text A.5]

B. A removal action work plan shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any plan prepared by PRPs shall be reviewed and approved by the department prior to the commencement of the removal action. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. The minimum requirements for a removal action work plan include:

[See Prior Text B.1 - C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26

§507. Remedial Investigation

[See Prior Text A - B]

C. To complete a RI the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide the following:

[See Prior Text C.1 - 3]

4. Remedial Investigation Report. Following the completion of the RI, a remedial investigation report shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any RI report prepared by PRPs shall be reviewed and approved by the department. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report. At a minimum, this report shall include:

[See Prior Text C.4.a - D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2187 (November 1999), LR 26

§509. Corrective Action Study

[See Prior Text A - C.5]

6. Preparation of a Corrective Action Study Report. Following the completion of the corrective action study activities in this Subsection, a CAS report describing the results of all required CAS activities shall be prepared by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. Any CAS report prepared by PRPs shall be reviewed and approved by the department prior to the approval of the CAS. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2188 (November 1999), LR 26

§515. Revisions to the Final Remedy

[See Prior Text A - B]

1. notify the Office of Environmental Assessment, Remediation Services Division, that a modification is necessary;

[See Prior Text B.2 - 3]

C. If the department determines that a modification is necessary (whether proposed by a PRP or by the department) and if the modification changes the final remedy in the final decision document, then the Office of Environmental Assessment, Remediation Services Division, shall:

[See Prior Text C.1 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26

§521. Post-Remedial Management

[See Prior Text A - A.2]

B. Operation and Maintenance. An operation and maintenance (O and M) plan shall be prepared for all sites assigned post-remedial management because hazardous substances remain at the site at levels above remedial goals or where O and M is part of the approved remedy. O and M plans prepared by PRPs shall be submitted to the Office of Environmental Assessment, Remediation Services Division, for review and approval. The department will provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. O and M plans prepared by PRPs for a site where leaving hazardous substances at the site is part of the approved and completed remedy shall be submitted to the department for review and approval at least six months prior to completion of the remedy. Each O and M plan shall include, but not be limited to:

[See Prior Text B.1 - 8]

C. Monitoring. If required by the department, a monitoring plan shall be developed by the Office of Environmental Assessment, Remediation Services Division, or by PRPs as directed by the department. A monitoring plan prepared by PRPs shall be submitted to the department for review and approval. The department shall provide comments to the PRPs and require revisions as necessary before approving the PRPs' plan. This plan shall include a description of provisions for monitoring of site conditions during the post-remedial management period to prevent further endangerment to human health and the environment, including:

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2191 (November 1999), LR 26

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Chapter 6. Cost Recovery

§607. Determination of Remedial Costs; Demand to PRPs

A. Timing. The Office of Environmental Assessment, Remediation Services Division, may at any time prepare a written determination of the cost of partial or complete remediation of a site. The department may revise its determination in writing at any time thereafter.

[See Prior Text B - D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2193 (November 1999), LR 26

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Hazardous Substance Site Remediation****Chapter 7. Settlement and Negotiations****§705. Negotiations**

[See Prior Text A - B.4]

C. Negotiations After Issuance of Administrative Orders. PRPs who have received unilateral administrative orders may negotiate with the Office of Environmental Assessment, Remediation Services Division, for dismissal of the administrative order upon execution of a cooperative agreement unless an emergency situation has been declared or the department determines that a stay of remedial actions or of enforcement will be detrimental to the public health, welfare, or the environment. The department has sole discretion in determining whether to enter into negotiations after issuance of a unilateral administrative order. Except by written determination of the department, no request for or conduct of negotiations in accordance with this Section shall serve to stay or modify the terms of any such unilateral administrative order.

[See Prior Text D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2194 (November 1999), LR 26

§709. De Minimis Settlements

[See Prior Text A - C]

D. To attain the goal set forth in Subsection C of this Section, the de minimis settlement should ordinarily involve a cash payment to the Office of Management and Finance, Financial Services Division, by the settling party or parties, rather than a commitment to perform work. Where a remedial action is being conducted in whole or in part by PRPs, it may be appropriate for settling de minimis parties to deposit the amount paid in accordance with the de minimis settlement into a site-specific trust fund to be administered by a third party trustee and used for remedial action for that site.

[See Prior Text E - F.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2195 (November 1999), LR 26

§711. Mixed Funding

[See Prior Text A - B]

C. Eligibility and Mixed Funding Criteria. The Office of Environmental Assessment, Remediation Services Division, shall make a determination whether a proposal is eligible for funding. The only circumstances under which mixed funding can be approved by the department are when the funding will achieve both:

[See Prior Text C.1 - E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2171 et seq., 2221 et seq., and 2271 et seq.

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Chapter 8. Public Information and Participation

§801. Public Information

[See Prior Text A - B]

1. Information Repositories. The Office of Environmental Assessment, Remediation Services Division, may establish and maintain an information repository in a public location near the site. If a repository is established, PRPs shall provide the department with copies of all necessary documents.

[See Prior Text B.2 - 3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26

§803. Public Participation

A. In order to ensure that the public has an opportunity to comment on site-related decisions, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall provide opportunities for public participation as listed in this Section. All public participation activities undertaken by PRPs shall be performed under the direction and approval of the department.

[See Prior Text A.1 - 1.b]

2. For sites where the secretary has made a demand for remedial action in accordance with R.S. 30:2275, the department shall, upon written request, provide an opportunity for a public meeting prior to approval of a site remedial investigation plan and selection of a remedy. Additionally, if a written request is received, the department shall hold a public comment period of not more than 60 calendar days duration prior to approval of a site remedial investigation plan and selection of a site remedy. Written requests shall be mailed to the Office of Environmental Assessment, Remediation Services Division.

[See Prior Text 2.a]

b. Prior to any public comment period, the Office of Environmental Assessment, Remediation Services Division, or PRPs as directed by the department, shall place a copy of the document being reviewed in a public location near the site.

[See Prior Text B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2221 et seq. and 2271 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 25:2196 (November 1999), LR 26